

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

TYRONE NOEL NUNN,

Plaintiff,

v.

HIGH DESERT STATE PRISON, *et al.*,

Defendants.

Case No. 2:24-cv-1323-RFB-NJK

**ORDER**

*Pro se* Plaintiff Tyrone Noel Nunn brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated. ECF No. 4. On April 15, 2025, this Court ordered Nunn to file an amended complaint by May 15, 2025. ECF No. 3 at 9. The Court warned Nunn that the action could be dismissed if he failed to file an amended complaint by that deadline. *Id.* That deadline expired and Nunn did not file an amended complaint, move for an extension, or otherwise respond.

**I. DISCUSSION**

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1)

1 the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its  
2 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of  
3 cases on their merits; and (5) the availability of less drastic alternatives. See In re  
4 Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone,  
5 833 F.2d at 130).

6 The first two factors, the public's interest in expeditiously resolving this litigation and the  
7 Court's interest in managing its docket, weigh in favor of dismissing Nunn's claims. The third  
8 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of  
9 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court  
10 or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth  
11 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by  
12 the factors favoring dismissal.

13 The fifth factor requires the Court to consider whether less drastic alternatives can be used  
14 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish  
15 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic  
16 alternatives before the party has disobeyed a court order does not satisfy this factor); accord  
17 Pagtalunan v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive  
18 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives  
19 prior to disobedience of the court's order as satisfying this element[,]” i.e., like the “initial granting  
20 of leave to amend coupled with the warning of dismissal for failure to comply[,]” have been  
21 “eroded” by Yourish). Courts “need not exhaust every sanction short of dismissal before finally  
22 dismissing a case, but must explore possible and meaningful alternatives.” Henderson v. Duncan,  
23 779 F.2d 1421, 1424 (9th Cir. 1986).

24 Because this action cannot realistically proceed until and unless Nunn files an amended  
25 complaint, the only alternative is to enter a second order setting another deadline. But the reality  
26 of repeating an ignored order is that it often only delays the inevitable and squanders the Court's  
27 finite resources. The circumstances here do not indicate that this case will be an exception: there  
28 is no hint that Nunn needs additional time or evidence that he did not receive the Court's screening

1 order. Setting another deadline is not a meaningful alternative given these circumstances. So, the  
2 fifth factor favors dismissal. Having thoroughly considered these dismissal factors, the Court finds  
3 that they weigh in favor of dismissal.

4  
5 **II. CONCLUSION**

6 **IT IS HEREBY ORDERED** that this action is **DISMISSED** without prejudice based on  
7 Nunn's failure to file an amended complaint in compliance with this Court's April 15, 2025, order  
8 and for failure to state a claim.

9 **IT IS FURTHER ORDERED** that Nunn's application to proceed *in forma pauperis* (ECF  
10 No. 1) without having to prepay the full filing fee is **GRANTED**. Nunn will **not** be required to  
11 pay an initial installment fee. Even though this action is dismissed and is otherwise unsuccessful,  
12 the full filing fee will still be due, pursuant to 28 U.S.C. §1915.

13 **IT IS FURTHER ORDERED** that, pursuant to 28 U.S.C. § 1915, the Nevada Department  
14 of Corrections will forward payments from the account of **Tyrone Noel Nunn, #1252474** to the  
15 Clerk of the United States District Court, District of Nevada, 20% of the preceding month's  
16 deposits (in months that the account exceeds \$10.00) until the full \$350 filing fee has been paid  
17 for this action.

18 The Clerk of the Court is **DIRECTED** to send copies of this order to: (1) the Finance  
19 Division of the Clerk's Office and (2) the Chief of Inmate Services for the Nevada Department of  
20 Corrections at formapauperis@doc.nv.gov.

21 The Clerk of Court is **DIRECTED** to enter judgment accordingly and close this case. No  
22 other documents may be filed in this now-closed case. If Nunn wishes to pursue his claims, he  
23 must file a complaint in a new case.

24  
25 **DATED:** June 3, 2025.

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**RICHARD F. BOULWARE, II**  
**UNITED STATES DISTRICT JUDGE**